

HOUSE BILL NO. 800

INTRODUCED BY M. LANGE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO DEFAULT SUPPLY OF ELECTRICAL ENERGY; MODIFYING THE POLICY RELATED TO LOW-COST ENERGY; REQUIRING THAT ENVIRONMENTALLY PREFERRED RESOURCES MUST FIRST BE SUPPLIED FROM QUALIFYING FACILITY CONTRACTS; REQUIRING THAT AN ENTITY OR PERSON THAT REQUESTS THE PURCHASE OF ENERGY FROM A QUALIFYING FACILITY MUST BE SUPPLIED POWER FROM THAT FACILITY TO THE FULLEST EXTENT POSSIBLE; REQUIRING THAT ANY POWER FROM QUALIFYING FACILITY CONTRACTS THAT IS NOT SOLD IN MONTANA MUST BE AGGRESSIVELY MARKETING OUTSIDE THE STATE OF MONTANA; REQUIRING THE PUBLIC SERVICE COMMISSION TO CONSIDER THE CREDIT WORTHINESS OF ENERGY SUPPLIERS AND POTENTIAL DEFAULT SUPPLIERS; REQUIRING THAT ANY RENEWABLE RESOURCE CONSIDERED IN THE DEFAULT SUPPLY RESOURCE PLAN MUST BE ANALYZED AS AN ON-DEMAND ENERGY SOURCE BASED ON A FIRM POWER SUPPLY; REQUIRING THAT THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE, IN CONJUNCTION WITH THE PUBLIC SERVICE COMMISSION, STUDY OTHER STATE MECHANISMS THAT REQUIRE ENTITIES SIMILAR TO THE PUBLIC SERVICE COMMISSION TO PUT TOGETHER DEFAULT SUPPLY PLANS AND PORTFOLIOS; REQUIRING NOTIFICATION TO UNSUCCESSFUL ENERGY SUPPLY APPLICANTS IN THE DEFAULT SUPPLY PORTFOLIO THAT THOSE APPLICANTS MAY APPEAL THEIR REJECTION TO THE COMMISSION; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 69-8-102, 69-8-210, 69-8-419, AND 69-8-420, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-8-102, MCA, is amended to read:

"69-8-102. Legislative findings and policy. The legislature finds and declares the following:

(1) The generation and sale of electricity is becoming a competitive industry.

(2) Montana customers should have the freedom to choose their electricity supply and related services in accordance with this chapter. Affording this opportunity serves the public interest.

(3) ~~The interests of small Montana consumers must be protected through the provision of adequate and~~

~~reliable default supply service at the lowest long-term total cost~~ It is the policy of the state of Montana that the default supplier procure the lowest-cost, most reliable energy for the families and employers of Montana. Full consideration must be given to the amount and duration of competing contracts for default supply from stable suppliers. Montana families and employers may buy renewable energy but may not be forced to pay artificially high prices for renewable energy.

(4) The financial integrity of electrical utilities must be fostered.

(5) The public interest requires the continued protection of consumers through:

(a) licensure of electricity suppliers;

(b) provision of information to consumers regarding electricity supply service;

(c) provision of a process for investigating and resolving complaints;

(d) continued funding for public purpose programs for:

(i) cost-effective local energy conservation;

(ii) low-income customer weatherization;

(iii) renewable resource projects and applications;

(iv) research and development programs related to energy conservation and renewables;

(v) market transformation; and

(vi) low-income energy assistance;

(e) assurance of service reliability and quality; and

(f) prevention of anticompetitive and abusive activities.

(6) A utility in the state of Montana may not be advantaged or disadvantaged in the competitive electricity supply market, including the consideration of the existence of universal system benefits programs and the comparable level of funding for those programs throughout the regions neighboring Montana."

Section 2. Section 69-8-210, MCA, is amended to read:

"69-8-210. Public utilities -- electricity supply. (1) A public utility's distribution services provider shall provide default supply service.

(2) The commission shall establish an electricity cost recovery mechanism that allows a default supplier to fully recover prudently incurred electricity supply costs, subject to the provisions of 69-8-419 and 69-8-420. The cost recovery mechanism must provide for prospective rate adjustments for cost differences resulting from cost changes, load changes, and the time value of money on the differences.

(3) The commission may direct a default supplier to offer its customers multiple default supply service options if the commission determines that those options are in the public interest and are consistent with the provisions of 69-8-104 and 69-8-201.

(4) (a) Notwithstanding any service options that the commission may require pursuant to subsection (3), a default supplier shall offer its customers the option of purchasing a product composed of or supporting power from certified environmentally preferred resources that include but are not limited to wind, solar, geothermal, and biomass, subject to review and approval by the commission. The commission shall ensure that these resources have been certified as meeting industry-accepted standards.

(b) The environmentally preferred resources described in subsection (4)(a) must first be provided from qualifying facilities.

(c) An entity or person that requested the purchase of electricity from a qualifying facility must be supplied power from that qualifying facility to the fullest extent possible. Any corresponding savings must be passed on to the default supply customers.

(d) Any power from qualifying facility contracts that is not sold in Montana must be aggressively marketed outside the state of Montana.

(5) (a) Subject to subsection (5)(b), the commission shall, in reviewing the procurement of electricity supply by the default supplier, take into account the statewide economic benefits that are associated with the electricity supply procurement for the default supply stakeholders. The default supply stakeholders include the default supplier, customers of the default supplier, and the public. The commission shall consider the credit worthiness of potential energy suppliers that have applied to provide electricity for the default supply.

(b) The consideration of economic benefits is secondary to the consideration of the costs and benefits to the consumer and other criteria established by law.

(6) If a public utility intends to be an electricity supplier through an unregulated division, then the public utility must be licensed as an electricity supplier pursuant to 69-8-404."

Section 3. Section 69-8-419, MCA, is amended to read:

"69-8-419. Default supply resource planning and procurement -- duties of default supplier -- objectives -- commission rules. (1) The default supplier shall:

- (a) plan for future default supply resource needs;
- (b) manage a portfolio of default supply resources; and

1 (c) procure new default supply resources when needed.

2 (2) The default supplier shall pursue the following objectives in fulfilling its duties pursuant to subsection
3 (1):

4 (a) provide adequate and reliable default supply services at the lowest long-term total cost;

5 (b) conduct an efficient default supply resource planning and procurement process that evaluates the
6 full range of cost-effective electricity supply and demand-side management options;

7 (c) identify and cost-effectively manage and mitigate risks related to its obligation to provide default
8 electricity supply service;

9 (d) use open, fair, and competitive procurement processes whenever possible; and

10 (e) provide default supply services at just and reasonable rates.

11 (3) (a) Any renewable resource considered in the default supply resource plan must be analyzed as an
12 on-demand energy source based on a firm power supply.

13 (b) For purposes of this subsection (3), "firm power supply" means a consistent supply of power by a
14 renewable resource using supplemental energy sources when necessary.

15 ~~(3)(4)~~ By December 31, 2003, the The commission shall adopt rules that guide the default supply
16 resource planning and procurement processes used by the default supplier and facilitate the achievement of the
17 objectives in subsection (2) by the default supplier. The rules must establish:

18 (a) goals, objectives, and guidelines that are consistent with the objectives in subsection (2) for:

19 (i) planning for future default supply resource needs;

20 (ii) managing the portfolio of default supply resources; and

21 (iii) procuring new default supply resources;

22 (b) standards for the evaluation by the commission of the reasonableness of a power supply purchase
23 agreement proposed by the default supplier; and

24 (c) minimum filing requirements for an application by the default supplier for advanced approval of a
25 proposed power supply purchase agreement."
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27 **Section 4.** Section 69-8-420, MCA, is amended to read:

28 **"69-8-420. Default supply resource procurement plans -- comment on plans.** (1) The default
29 supplier shall develop default supply resource procurement plans. The plans must be submitted to the
30 commission at intervals determined in rules adopted by the commission pursuant to 69-8-419.

(2) A default supply resource procurement plan must demonstrate the default supplier's achievement of the objectives provided in 69-8-419 and compliance with the rules adopted pursuant to 69-8-419.

(3) The commission shall:

(a) review the default supply resource procurement plan;

(b) provide an opportunity to the public to comment on the plan; and

(c) issue written comments that identify:

(i) any concerns of the commission regarding the default supplier's compliance with the rules adopted pursuant to 69-8-419; and

(ii) ways to remedy any concerns.

(4) The default supplier shall notify an unsuccessful energy supplier applicant in the default supplier's proposed portfolio that the unsuccessful energy supplier applicant may appeal the default supplier's rejection to the commission."

NEW SECTION. Section 5. Interim study. Before September 15, 2006, the energy and telecommunications interim committee established in 5-5-230 shall, in conjunction with the public service commission, study other state mechanisms that require entities similar to the public service commission to put together default supply plans and portfolios. The energy and telecommunications interim committee shall report its findings to the governor and the 60th legislature.

NEW SECTION. Section 6. Appropriation. There is appropriated from the general fund to the legislative services division \$500 for the biennium beginning July 1, 2005, and ending June 30, 2007, to conduct the study required in [section 5].

NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2005.

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